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HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE G.BHAVANI PRASAD

WRIT PETITION NO:28093 of 2005

DATED: 05-06-2007

Between:

K.Venkateswara Rao

..... PETITIONER

AND

1. State of Andhra Pradesh, rep.by the Mandal Revenue Officer, Shaikpet Mandal, Hyderabad and 4 others.

.....RESPONDENTS

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ORDER:(per Hon'ble Sri Justice B.Prakash Rao)

Heard both sides.

The petitioner herein is a third party, who by way of this writ petition seeking for a certiorari assailing the orders in rejecting an application seeking to implead himself as 5th respondent in an application filed under Section 8 of the A.P. Land Grabbing

(Prohibition) Act (for brevity 'the Act'), as per orders in I.A.No.898 of 2005 in L.G.C.No.27 of 1991 dated 16-12-2005 on the file of the Special Court under the A.P. Land Grabbing (Prohibition) Act, Hyderabad.

Briefly stated facts of the case are that initially the said application in L.G.C.No.27 of 1991 was filed by the first respondent i.e., the State seeking to declare the respondents 2 to 5 as land grabbers. Subject matter of the same being contested and when the matter stood thus, the petitioner has filed the present application *inter alia* seeking to implead himself claiming that he is an agreement holder and he also obtained a decree in that regard in O.S.No.93 of 1983 on the file of the Additional Chief Judge, City Civil Court, and the subject matter is one and the same, therefore, his interest has to be protected and his presence is required. However, on contest by the respondents herein the said application was dismissed *inter alia* holding that the petitioner is not having possession of the schedule land or part and his claim is virtually a civil nature and therefore, he cannot be made as a party to the proceedings. Hence, the writ petition.

Having heard the learned counsel on both sides and also on perusal of the material on record the only point which arises for consideration is whether under the facts and circumstances the petitioner is entitled to come on record.

There is no dispute to the aforesaid basic facts that the initial application has been filed by the first respondent to declare respondents 2 to 5 as land grabbers whereas the same was contested by respondents 2 to 5 on their own claim as set up by them and the petitioner claims that he is an agreement holder and therefore, he needs to come on record.

The Court below has, in fact, virtually gone into the merits of the case and sought to hold that since the petitioner is not in possession and the dispute being civil nature he cannot come on record.

It is now well settled that the rules of procedure has to be interpreted in more substantive way and it should use to aid not only the parties but also the Court. Whenever a party comes with a claim in a dispute which is pending, irrespective of the question with regards his claim or right or anything, an opportunity should have been provided, so that the Courts also should have a proper assistance from different quarters to come to a right conclusion. Even as per the principles as laid and interpreted under Order I Rule 10 CPC the Courts have to take a liberal approach when any such person claiming right, title or whatsoever nature irrespective of the fact that whether he is in possession or not. More so, while considering the application which is merely for seeking implementation the Courts should not give any finding on merits

which are required to be gone into later and ultimate decision has to be arrived at. Even otherwise, the narrow approach cannot made, especially, in view of sub-section (6) of Section 8 of the Act which specifically states that every finding of the Special Court would be binding on all persons in such a manner. Therefore, necessarily it connotes a wider scope and wider interpretation and the doors are being opened much wider. Therefore, the petitioner can walk into the subject matter and assist the Court. In view of the same, we are of the view that the petitioner is entitled to come on record and participate in the proceedings.

Accordingly, the writ petition is allowed and the application to implead the petitioner stands allowed. The Special Court shall dispose of the matter within a period of three months from the date of receipt of a copy of this order. No order as to costs.

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B.PRAKASH RAO, J

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G.BHAVANI PRASAD, J

05th June, 2007

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